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106TH CONGRESS
1ST SESSION

H. R. 3384

To strengthen provisions in the Energy Policy Act of 1992 with respect to potential Climate Change.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 1999

Mr. BARTON of Texas introduced the following bill; which was referred to the Committee on Commerce

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A BILL

To strengthen provisions in the Energy Policy Act of 1992 with respect to potential Climate Change.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Energy and Climate Policy Act of 1999''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) although there are significant uncertainties surrounding the science of climate change, human activities may contribute to increasing global con-

centrations of greenhouse gases in the atmosphere, which in turn may ultimately contribute to global climate change beyond that resulting from natural variability;

(2) the characteristics of greenhouse gases and the physical nature of the climate system require that any stabilization of atmospheric greenhouse gas concentrations must be a long-term effort undertaken on a global basis;

(3) since developing countries will constitute the major source of greenhouse gas emissions early in the 21st century, all nations must share in an effective international response to potential climate change;

(4) environmental progress and economic prosperity are interrelated;

(5) effective greenhouse gas management efforts depend on the development of long-term, cost-effective technologies and practices that can be developed, refined, and deployed commercially in an orderly manner in the United States and around the world;

(6) in its present form as signed by the Administration, the Kyoto Protocol to the United Nations Framework Convention on Climate Change fails to

meet the minimum conditions of Senate Resolution 98, 105th Congress, which was adopted by the Senate on July 25, 1997, by a vote of 95–0;

(7) the President has not submitted the Kyoto protocol to the Senate for debate and advice and consent to ratification under article II, section 2, clause 2 of the United States Constitution and has indicated that the Administration has no intention to do so in the foreseeable future, or to implement any portion of the Kyoto protocol prior to its ratification in the Senate.

(b) PURPOSE.—The purpose of this Act is to strengthen provisions of the Energy Policy Act of 1992 (42 U.S.C. 13381 et seq.) to—

(1) further promote voluntary efforts to reduce or avoid greenhouse gas emissions and improve energy efficiency; and

(2) focus Department of Energy efforts in this area.

SEC. 3. OFFICE OF GLOBAL CLIMATE CHANGE.

Section 1603 of the Energy Policy Act of 1992 (42 U.S.C. 13383) is amended—

(1) in the section heading, by striking ''**DIRECTOR OF CLIMATE PROTECTION**''

and inserting ''**OFFICE OF GLOBAL CLIMATE CHANGE**''; and

(2) by striking the first sentence and inserting the following:

''(a) ESTABLISHMENT.—There is established by this Act in the Department of Energy an Office of Global Climate Change.

''(b) FUNCTION.—The Office shall serve as a focal point for coordinating for the Secretary and Congress all departmental issues and policies regarding climate change and related matters.

''(c) DIRECTOR.—The Secretary shall appoint a director of the Office, who—

''(1) shall be compensated at no less than level IV of the Executive Schedule;

''(2) shall report to the Secretary; and

''(3) at the request of the Committees of the Senate and House of Representatives with appropriation and legislative jurisdiction over programs and activities of the Department of Energy, shall report to Congress on the activities of the Office.'';

(3) in the second sentence, by striking ''The Director'' and inserting the following:

''(d) DUTIES.—The Director''; and

(4) in subsection (c) (as designated by paragraph (2)), by striking paragraphs (2) and (3) and inserting the following:

''(2) participate, in cooperation with other federal agencies, in the development and monitoring of domestic and international policies for their effects on any kind of climate change globally and domestically and on the generation, reduction, avoidance, and sequestration of greenhouse gases;

''(3) develop and implement a balanced, scientifically sound, nonadvocacy educational and informative public awareness program on—

''(A) potential global climate change, including any known adverse and beneficial effects on the United States and the economy of the United States and the world economy, taking into consideration whether those effects are known or expected to be temporary, long-term, or permanent; and

''(B) voluntary means and measures to mitigate or minimize significant adverse effects and, where appropriate, to adapt, to the greatest extent practicable, to climate change;

''(4) provide, consistent with applicable provisions of law (including section 1605 (b)(3)), public

assess to all information on climate change, effects of climate change, and adaptation to climate change;

''(5) promote and cooperate in the research, development, demonstration, and diffusion of environmentally sound, cost-effective and commercially practicable technologies, practices and processes that avoid, sequester, control, or reduce anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol for all relevant economic sectors, including, where appropriate, the transfer of environmentally sound, cost-effective and commercially practicable technologies, practices, and processes developed with Federal funds by the Department of Energy or any of its facilities and laboratories to interested persons in the United States and to developing country Parties to the United Nations Framework Convention on Climate Change, and Parties thereto with economies in transition to market-based economies, consistent with, and subject to, any applicable Federal law, including patent and intellectual property laws, and any applicable contracts, and taking into consideration the provisions and purposes of section 1608; and

''(6) have the authority to participate in the planning activities of relevant Department of Energy programs.''.

SEC. 4. NATIONAL INVENTORY AND VOLUNTARY REPORTING OF GREENHOUSE GASES.

(a) UPDATING.—Section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385) is amended—

(1) by amending the second sentence of subsection (a) to read as follows—

''The Administrator of the Energy Information Administration shall annually update and analyze such inventory using available data, including beginning in calendar year 2001, information collected as a result of voluntary reporting under subsection (b). The inventory shall identify for calendar year 2001 and thereafter the amount of emissions reductions attributed to those reported under subsection (b).'';

(2) by amending subsection (b)(1)(B) and (C) to read as follows—

''(B) annual reductions or avoidance of greenhouse gas emissions and sequestration and carbon fixation achieved through any measures, including agricultural activities, cogeneration, appliance efficiency, energy efficiency, forestry activities that in-

crease carbon sequestration stocks (including the use of forest products), fuel switching, management of grasslands and drylands, manufacture or use of vehicles with reduced greenhouse gas emissions, methane recovery, ocean seeding, use of renewable energy, chlorofluorocarbon capture and replacement, and power plant heat rate improvement; and

''(C) reductions in, or avoidance of, greenhouse gas emissions achieved as a result of voluntary activities domestically, or internationally, plant or facility closings, and State or Federal requirements.'';

(3) by striking in the first sentence of subsection (b)(2) the word ''entities'' and inserting ''persons or entities'' and in the second sentence of such subsection, by inserting after ''Persons'' the words ''or entities'';

(4) by inserting in the second sentence of subsection (b)(4) the words ''persons or'' before ''entity''; and

(5) by adding after subsection (b)(4) the following new paragraphs—

''(5) RECOGNITION OF VOLUNTARY REDUCTIONS OR AVOIDED EMISSIONS OF GREENHOUSE GASES.—In order to encourage and facilitate new and increased voluntary efforts on a continuing basis, particularly by persons and

entities in the private sector, to reduce global emissions of greenhouse gases, including voluntary efforts to limit, control, sequester, and avoid such emissions, the Secretary shall promptly develop and establish, after an opportunity for public comment of at least 60 days, a program of giving annual public recognition, beginning not later than January 31, 2001, to all reporting persons and entities demonstrating, pursuant to the voluntary collections and reporting guidelines issued under this section, voluntarily achieved greenhouse gases reductions, including such information reported prior to the enactment of this paragraph. Such recognition shall be based on the information certified, subject to 18 U.S.C. 1001, by such persons or entities for accuracy as provided in paragraph 2 of this subsection. At a minimum such recognition shall annually be published in the Federal Register.

''(6) CHANGES IN GUIDELINES TO IMPROVE ACCURACY AND RELIABILITY.—The Secretary of Energy, through the Administrator of the Energy Information Administration, shall conduct a review, which shall include an opportunity for public comment, of what, if any, changes should be made to the guidelines established under this section regarding the accuracy and reliability of greenhouse gas reductions and related information reported under this section. Any such review shall give con-

siderable weight to the voluntary nature of this section and to the purpose of encouraging voluntary greenhouse gas emission reductions by the private sector. Changes to be reviewed shall include the need for, and the appropriateness of—

''(A) a random or other verification process using the authorities available to the Administrator under other provisions of law;

''(B) a range of reference cases for reporting of project-based activities in sectors, including, but not limited to, the measures specified in subparagraph (1)(B) of this subsection, and the inclusion of benchmark and default methodologies for use in the reference cases for 'greenfield' projects; and

''(C) provisions to address the possibility of reporting, inadvertently or otherwise, of some or all of the same greenhouse gas emissions reductions by more than one reporting entity or person and to make corrections where necessary.

The review should consider the costs and benefits of any such changes, the impacts on encouraging participation in this section, including by farmers and small businesses, and the need to avoid creating undue economic advantages or disadvantages for persons or entities of the private sector. The review should provide, where appro-

priate, a range of reasonable options that are consistent with the voluntary nature of this section and that will help further the purposes of this section. The review should be available in draft form for public comment at least 45 days before it is submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Commerce of the House of Representatives. Such submittal should be made by December 31, 2000. If the Secretary, in consultation with the Administrator, finds, based on the study results, that such changes are likely to be beneficial and cost effective in improving the accuracy and reliability of reported greenhouse gas reductions and related information, are consistent with the voluntary nature of this section, and furthers the purposes of this section, the Secretary shall propose and promulgate, consistent with such finding, such guidelines, together with such findings. In carrying out the provisions of this paragraph, the Secretary shall consult with the Secretary of Agriculture and the Administrator of the Small Business Administration to facilitate greater participation by small business and farmers in this subsection for the purpose of addressing greenhouse gas emission reductions and reporting such reductions.''.

(6) in subsection (c), by inserting ''the Secretary of the Department of Agriculture, the Sec-

retary of the Department of Commerce, the Administrator of the Energy Information Administration, and'' before ''the Administrator''.

(b) GUIDELINES.—The Secretary shall revise, after opportunity for public comment, the guidelines issued under section 1605(b) of the Energy Policy Act of 1992 to reflect the amendments made to such section 1605(b) by subsection (a)(2) through (4) of this section not later than 18 months after the date of enactment of this Act. Such revised guidelines shall specify their effective date.

(c) EFFECTIVE DATE.—The provisions of subsection (a) (5) and (6) of this section shall be effective on the date of enactment of this Act.

SEC. 5. DEFINITIONS.

For the purpose of this Act and the provisions of the Energy Policy Act of 1992 (42 U.S.C. 13381, et seq.) amended by this Act, the following terms are defined as follows:

''(1) AGRICULTURAL ACTIVITY.—The term 'agricultural activity' means livestock production, cropland cultivation, biogas recovery and nutrient management.

''(2) CLIMATE CHANGE.—The term 'climate change' means a change of climate which is attributed directly or indirectly to human activity which is

in addition to natural climate variability observed over comparable time periods.

''(3) CLIMATE SYSTEM.—The term 'climate system' means the totality of the atmosphere, hydrosphere, biosphere and geosphere and their interactions.

''(4) GREENHOUSE GASES.—The term 'greenhouse gases' means those gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation.

''(5) GREENHOUSE GAS REDUCTION.—The term 'greenhouse gas reduction' means 1 metric ton of greenhouse gas (expressed in terms of carbon dioxide equivalent) that is voluntarily certified to have been achieved under section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385).

''(6) GREENHOUSE GAS SEQUESTRATION.—The term 'greenhouse gas sequestration' means extracting one or more greenhouse gases from the atmosphere or an emissions stream through a technological process designed to extract and isolate those gases from the atmosphere or an emissions stream; or the natural process of photosynthesis that extracts carbon dioxide from the atmosphere and

stores it as carbon in trees, roots, stems, soils, foliage, and durable wood products.

''(7) FOREST PRODUCTS.—The term 'forest products' means all products or goods manufactured from trees.

''(8) FORESTRY ACTIVITY.—

''(A) IN GENERAL.—The term 'forestry activity' means any ownership or management action that has a discernible impact on the use and productivity of forests.

''(B) INCLUSIONS.—Forestry activities include, but are not limited to, the establishment of trees on an area not previously forested, the establishment of trees on an area previously forested if a net carbon benefit can be demonstrated, enhanced forest management (e.g., thinning, stand improvement, fire protection, weed control, nutrient application, pest management, other silvicultural practices), forest protection or conservation if a net carbon benefit can be demonstrated, and biomass energy (using wood, grass or other biomass in lieu of fossil fuel).

''(C) EXCLUSIONS.—The term 'forest activity' does not include a land use change associated with—

''(i) an act of war; or

''(ii) an act of nature, including floods, storms, earthquakes, fires, hurricanes, and tornadoes.

''(9) MANAGEMENT OF GRASSLANDS AND DRYLANDS.—The term 'management of grasslands and drylands' means seeding, cultivation, and nutrient management.

''(10) OCEAN SEEDING.—The term 'ocean seeding' means adding nutrients to oceans to enhance the biological fixation of carbon dioxide.''.

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